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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PHILIP GOLDING,

Plaintiff,

v.

AMTRUST BANK, et al.,

Defendants.

2:10-CV-001 JCM (RJJ)

ORDER

Presently before the court is defendant Cal-Western Reconveyance Corps.'s (hereinafter "Cal-Western") motion to dismiss. (Doc. #9). Plaintiff Philip Golding has not filed a response.

Plaintiff filed his complaint in the Eighth Judicial District Court on December 10, 2009 (Doc. #1). Plaintiff's claims concern alleged misconduct in the loan and foreclosure process, including allegations that defendants used the registry system, developed by MERSCORP, Inc. and Mortgage Electronic Registration Systems, Inc. (collectively "MERS"), to profit from making predatory loans to borrowers and to hide the identity of lenders and investors related to the loan. *Id.*

The judicial panel on multidistrict litigation ("JPML") consolidated this case (and others) into the *In re Mortgage Electronic Registration Systems, Inc. ("MERS") MDL*, (MDL No. 09-2119). *See In re MERS Litig.*, 659 F.Supp. 2d 1368, 1371 (J.P.M.L. Dec. 7, 2009) (transferring, in part, pretrial proceedings to Judge James Teilborg of the District of Arizona). In its transfer order, the JPML retained claims 2 through 6, 8 and the part of claim number 7 that relates to MERS while remanding claim 1 and the part of claim number 7 relating to the other defendants.

Therefore, this court may only consider defendant's motion with respect to plaintiff's first

1 claim alleging violation of unfair lending practices pursuant to N.R.S. 598D.1000 and plaintiff's
2 seventh claim seeking declaratory relief. Defendant Cal-Western is not subject to plaintiff's first
3 claim for relief.

4 With respect to plaintiff's seventh claim, declaratory relief is only appropriate where (1) there
5 is a justifiable controversy between the parties whose interests are adverse; (2) the party seeking
6 declaratory relief has legal interest in the controversy; and (3) the issue is ripe for judicial
7 determination. *Knittle v. Progressive Cas. Ins. Co.*, 908 P.2d 724, 725 (Nev. 1996). However, all of
8 the other pertinent outstanding claims between the plaintiff and defendant are with the JPML.
9 Therefore, plaintiff's claim for declaratory relief is not ripe for judicial determination.

10 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant
11 Cal-Western Reconveyance Corps.'s motion to dismiss, (Doc. #9), is DENIED without prejudice.

12 DATED July 30, 2010.

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15 UNITED STATES DISTRICT JUDGE
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